

## Bureau of Land Management, Interior

## § 3190.2-2

(d) *Enforcement* means action taken by an authorized representative of the Secretary in order to obtain compliance with applicable regulations, On-shore Oil and Gas Orders, Notices to Lessees and Operators, approvals, other written orders, the mineral leasing laws, and the Federal Oil and Gas Royalty Management Act.

(e) *Indian lands* means any lands or interests in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

(f) *Proprietary data* means information obtained from a lessee that constitutes trade secrets, or commercial or financial information that is privileged or confidential, or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)).

### § 3190.0-7 Cross references.

- (a) 25 CFR 211.18; 212.24; 213.34.
- (b) 30 CFR part 229.
- (c) 43 CFR part 3160.

### § 3190.1 Proprietary data.

With regard to any data or information obtained by a State, Indian tribe or individual, whether under a delegation of authority, cooperative agreement or contract, the following applies:

(a) Proprietary data shall be made available to a State or Indian tribe pursuant to a cooperative agreement under the provisions of 30 U.S.C. 1732 if such State or Indian tribe:

(1) Consents in writing to restrict the dissemination of such information to such persons directly involved in an investigation under 30 U.S.C. 1732 who need the information to conduct the investigation;

(2) Agrees in writing to accept liability for wrongful disclosure;

(3) In the case of a State, the State demonstrates that such information is essential to the conduct of an inves-

tigation or to litigation under 30 U.S.C. 1734; and

(4) In the case of an Indian tribe, the tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure.

(b)(1) Any person or State that obtains proprietary data pursuant to a delegation of authority, cooperative agreement or contract under this part is subject to the same provisions of law with respect to the disclosure of such information as would apply to any officer or employee of the United States.

(2) Disclosure of proprietary data obtained pursuant to a delegation of authority, cooperative agreement, or contract under this part may not be compelled under State law.

### § 3190.2 Recordkeeping, funding and audit.

#### § 3190.2-1 Recordkeeping.

(a) Records and accounts relating to activities under delegations of authority, cooperative agreements or contracts shall be identified in the delegation, cooperative agreement or contract.

(b) All records and other materials relating to a delegation of authority, cooperative agreement or contract shall be maintained by the State, Indian Tribe or contractor for a period of 6 years from the date they are generated or such other period as may be specified in the delegation, cooperative agreement or contract.

#### § 3190.2-2 Funding.

(a) States and Tribes shall provide adequate funding for administration and execution of activities carried out under a delegation or cooperative agreement.

(b) Reimbursement for allowable costs incurred by a State, Indian tribe or contractor as a result of activities carried out under a delegation of authority, cooperative agreement or contract shall be as negotiated, with the following limitations:

(1) Up to 100 percent for a delegation of authority; or

(2) Up to 100 percent for a cooperative agreement.

### **§ 3190.2-3**

(c) Funding shall be subject to the availability of funds.

(d) States, Indian tribes or contractors shall maintain financial records relating to the funds received and expended under a delegation of authority, cooperative agreement or contract as specified in the delegation of authority, cooperative agreement or contract.

(e) Reimbursement shall be at least quarterly and only shall be made upon submission of an invoice or request for reimbursement to the authorized officer.

[52 FR 27182, July 17, 1987, as amended at 62 FR 49586, Sept. 22, 1997]

### **§ 3190.2-3 Audit.**

In maintaining financial records relating to the funds received and expended under a delegation of authority, cooperative agreement, or contract, States, Indian tribes and contractors shall comply with generally accepted accounting principles and audit requirements established by the Department of the Interior and Bureau of Land Management.

### **§ 3190.3 Sharing of civil penalties.**

Fifty percent of any civil penalty collected by the United States as a result of activities carried out by a State under a delegation of authority or a State or Indian tribe under a cooperative agreement shall be payable to that State or Indian tribe upon receipt by the United States. Such amount shall be deducted from compensation due to the State or Indian tribe by the United States under the delegation of authority or cooperative agreement.

### **§ 3190.4 Availability of information.**

Information in the possession of the Bureau of Land Management that is necessary to carry out activities authorized by delegations of authority, cooperative agreements, or contracts entered into under this part will be provided by the BLM to the States and Indian tribes party to such agreements. Release of proprietary data shall be subject to the provisions of § 3190.1 of this part.

[56 FR 2998, Jan. 25, 1991]

## **43 CFR Ch. II (10-1-13 Edition)**

### **Subpart 3191—Delegation of Authority**

#### **§ 3191.1 Petition for delegation.**

##### **§ 3191.1-1 Petition.**

The Governor or other authorized official of any eligible State may request in writing that the Director delegate all or part of his/her authority and responsibility for inspection, enforcement and investigation on oil and gas leases on Federal lands within the State and on Indian lands within the State where the affected Indian tribe or Indian allottee has given written permission for such inspection, enforcement and investigation. Requests by a State for delegation of other activities may be granted by the Director with the approval of the Secretary.

##### **§ 3191.1-2 Eligibility.**

Any State with producing oil or gas leases on Federal or Indian lands may request a delegation of authority.

##### **§ 3191.1-3 Action upon petition.**

Upon request for a delegation of authority, the Director shall determine if:

(a) The State has proposed an acceptable plan for carrying out the delegated activities and will provide adequate resources to achieve the purposes of 30 U.S.C. 1735. This plan shall, at a minimum:

(1) Identify specific authorities and responsibilities for which the State is requesting a delegation of authority and whether it is applicable to Federal lands only or includes Indian lands;

(2) Provide evidence of written permission of the affected Indian tribe(s) or allottee(s) for such lands;

(3) Include specifics for carrying out the delegated activities;

(4) Indicate the inspector resources for carrying out the delegated activities and documentation of inspector qualifications;

(5) Describe the proposed record keeping for funding purposes;

(6) Detail the frequency and method of payment; and

(7) Include copies of any non-Federal forms that are to be used.